

REMARKS

Reconsideration of this application as amended is respectfully requested. Claims 17, 20, 23, 24, 33 36, 54, and 58 have been amended and are again presented for the Examiner's consideration in view of the following comments.

In the Official Action, claims 17-19, 22, 24-32, 35, and 54 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,371,964 to Vargas et al. ("Vargas"). In addition, claims 56 and 57 were rejected under 35 U.S.C. § 103(a) as being obvious over Vargas. Applicants respectfully traverse these rejections.

Without acquiescing with any of the rejections set forth in the Official Action, applicants have amended claims 17, 24, and 54 to advance prosecution. Claim 17 now recites a connector including, *inter alia*, a first portion and a second portion, "the first portion and the second portion being joined together to define a plurality of cells each having a medial portion, each cell being joined to an adjacent cell only at the medial portion. Claims 24 and 54 recite similar limitations. Applicants respectfully submit that Vargas fails to disclose or suggest the features quoted above.

MPEP § 2131 states that "'[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)" (emphasis added). "'The identical invention must be shown in **as complete detail as** is contained in the ... claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)" (emphasis added). Moreover, "[e]very element of the claimed invention must be literally present, **arranged as in the claim.**" *Id.* (emphasis added).

Vargas relates to an anastomosis device including axial members and struts. According to the Official Action, *Vargas* discloses a connector including a first portion having first and second groups of members and a second portion proximal to the first portion. In particular, the Official Action characterized the claimed first portion as *Vargas'* central connection portion 24, the first group of members as *Vargas'* struts 14, and the second portion as *Vargas'* second linkage 16. However, *Vargas* does not disclose a second portion and, moreover, the elements of *Vargas* are not arranged as required in the claims.

As seen in Figure 1 of *Vargas*, the central connecting portion 24 does not include first and second groups of members, as recited in the claims. Figure 1 of *Vargas* clearly shows that struts 14 are not part of central connecting portion 24. Similarly, the second linkage 16 of *Vargas* is not part of the connecting portion 24. Accordingly, *Vargas* does not disclose or suggest a first portion **that includes** first and second groups of members, as recited in claims 17, 24, and 54.

Even assuming, for the sake of argument, that *Vargas* does disclose a first portion including first and second groups of members, *Vargas* still fails to disclose a second portion located proximally to the first portion. Given that the recited first portion includes the first and second groups of members, *Vargas* must disclose a second portion proximal to the first and second groups of members to anticipate the claims. Such is not the case. As discussed above, the Official Action characterized *Vargas'* second linkage 16 as the claimed second group of members. No portion of *Vargas'* device is located proximal to second linkage 16. *Vargas* therefore fails to disclose a second portion located proximally to the first and second groups of members. In light of the foregoing, applicants submit that *Vargas* does not disclose or suggest a second portion proximal to the first portion, as recited in claims 17, 24, and 54.

Furthermore, *Vargas* fails to disclose a plurality of cells each having a medial portion, each cell being joined to an adjacent cell **only** at the medial portion. As seen in Figure 1 of *Vargas*, *Vargas* does not disclose cells joined **only** at a medial portion of a structure. *Vargas* includes "struts 14 arranged in a plurality of diamond shapes with adjacent diamond shapes connected to each other to form a continuous ring of diamond shapes around the device." (*Vargas*, col. 7, ll. 54-56.) Each diamond-shaped structure is connected to an adjacent diamond-shaped structure at multiple locations, as clearly shown in Figure 1 of *Vargas*. Figure 1 shows that each of *Vargas*' diamond-shaped structures is connected to an adjacent diamond-shaped structure at least at two end portions and a medial portion. Thus, *Vargas* does not disclose or suggest a structure including a plurality cells, each cell being joined to an adjacent cell *only* at a medial portion, as recited in claims 17, 24, and 54.

In view of the foregoing, applicants submit that claims 17, 24, and 54 are not anticipated or suggested by *Vargas* and are in condition for allowance. Allowance of claims 17, 24, and 54 is therefore respectfully requested.

Claims 18 and 56 depend directly from claim 17 and includes all of the limitations of that claim. For at least this reason, applicants submit that claims 18 and 56 are also in condition for immediate allowance. Claims 19 and 22 have been canceled. Accordingly, the rejection of claims 19 and 22 is now moot.

Claims 25-31 depend either directly or indirectly from claim 24 and include all of the limitations of that claim. For at least this reason, applicants submit that claims 25-31 are also in condition for immediate allowance. Claims 32 and 35 have been canceled. Accordingly, the rejection of claims 32 and 35 is now moot.

Claim 57 depends directly from claim 54 and includes all of the limitations of that claim. Applicants therefore submit that claim 57 is also in condition for allowance.

Claims 58-61 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,602,263 to Swanson et al. ("*Swanson*"). Applicants respectfully traverse this rejection for the reasons set forth below.

In the interest of furthering prosecution, applicants have amended claim 58 to recite a connector comprising, *inter alia*, "a plurality of hollow cells joined together in a continuous manner ... each cell being joined to an adjacent cell only by a connection between the first midpoint of one cell and the second midpoint of the adjacent cell." Applicants respectfully submit that *Swanson* does not disclose or suggest this feature.

Swanson relates to a connector structure including cells. Each cell of *Swanson's* connector is joined to an adjacent cell at multiple locations, not only at a medial portion. As clearly shown in Figure 2 of *Swanson*, each cell is joined to an adjacent cell at an end portion and at a medial portion of *Swanson's* connector. *Swanson* therefore fails to disclose or suggest a connector comprising, *inter alia*, "a plurality of hollow cells joined together in a continuous manner ... each cell being joined to an adjacent cell only by a connection between the first midpoint of one cell and the second midpoint of the adjacent cell," recited in claim 58.

In light of the foregoing, applicants respectfully submit that claim 58 is patentable over *Swanson*. Accordingly, applicants submit that claim 58 is in condition for allowance.

Claims 59-61 depend either directly or indirectly from claim 58 and include all of the limitations of that claim. For at least this reason, applicants submit that claims 59-61 are also in condition for immediate allowance.

In the Official Action, claims 20, 21, 23, 33, 34, and 36 were rejected under 35 U.S.C. § 103(a) as being obvious over *Vargas* in view of U.S. Patent No. 5,397,345 to Lazarus ("Lazarus"). Applicants respectfully traverse this rejection.

Applicants reiterate the deficiencies of *Vargas* discussed above. *Lazarus* fails to cure these deficiencies. For at least the foregoing reason, and because claims 20, 23, 33 and 36 depend either directly or indirectly from claims 17 and 24, respectively, and include all of the limitations of those claims, applicants submit that claims 20, 23, 33 and 36 are also in condition for immediate allowance. Claims 21 and 34 have been canceled. Accordingly, the rejection of claims 21 and 34 is now moot.

In the Official Action, claims 62-65 were rejected under 35 U.S.C. § 103(a) as being obvious over *Vargas* in view of *Swanson*. Applicants respectfully traverse this rejection for the reasons set forth below.

Applicants reiterate the clear deficiencies of *Vargas*. *Swanson* fails to cure these deficiencies. For at least the foregoing reason, and because claims 62, 63, 64, and 65 depend directly from claims 17 and 24, respectively, and include all of the features of those claims, applicants submit that claims 62, 63, 64, and 65 are also in condition for allowance.

Applicants have added new independent claims 66 and 67. Claims 66 and 67 each recite a connector including a structure "configured to expand from a deformed configuration having a substantially conical shape to an expanded configuration." None of the cited references discloses or suggests the feature quoted above. Accordingly, applicants respectfully submit that claims 66 and 67 are patentable over the references of record.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If,

however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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